

Dear Member

LICENSING SUB-COMMITTEE - THURSDAY, 18TH MAY, 2017

Please find attached, for consideration at the next meeting of the Licensing Sub-Committee, taking place on Thursday, 18th May, 2017, the following reports that were unavailable when the agenda was printed.

Please bring this document with you to the meeting.

Agenda No Item

1. **Review of Premises Licence Following an Illegal Working Compliance Order - Indian Tree, Market Place, Ringwood (Pages 1 - 6)**

Yours sincerely

**023 8028 5588 - ask for Melanie Stephens
Committee Administrator**

Encs

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Agenda Item 1



HAMPSHIRE
CONSTABULARY

Southampton Neighbourhood Police Office
Southampton City Council
Civic Centre
Southampton
Hampshire
SO14 7LY

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Licensing Authority
New Forest District Council
Appletree Court
Lyndhurst
Hampshire
SO43 7PA

Our ref: 44080373924
Your ref:

11 May 2017

Dear New Forest District Council Licensing Authority

On behalf of the Chief Officer of Police, I am writing to confirm receipt of the application for a review of the premises licence for Indian Tree, 14 Market Place, Ringwood, BH24 1AW, submitted by New Forest District Council.

Hampshire Constabulary supports this review application and makes representations under the following licensing objective:

- The prevention of crime and disorder

Hampshire Constabulary are concerned that the poor management of the premises is detrimentally undermining the licensing objectives, and that Immigration Enforcement have needed to obtain an Illegal Working Compliance Order in order to prevent illegal working at the premises.

Hampshire Constabulary work with Immigration Enforcement officers in preventing illegal working. Illegal working is at the centre of a wealth of other crimes. At worst, illegal working can be indicative of Modern Slavery or Human Trafficking, where vulnerable people are exploited.

For this particular premises, PC Conway was asked to assist Immigration Enforcement in providing a statement as to what police expect a premises licence holder and DPS in the promoting the licensing objectives, and police contact with the premises licence holder Mr Adib BACHHU. A copy of this statement is provided.

From the Gov.uk release dated 6th April 2017, Immigration Minister Robert Goodwill says

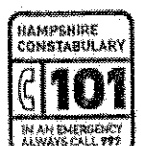


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Deaf? Non-emergency text **07781 480999**

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**HAMPSHIRE
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“Illegal working cheats the taxpayer, has a negative impact on the wages of lawful workers and allows rogue employers to undercut legitimate businesses.

“These new measures will allow us to work more effectively with licensing authorities and the police to prevent illegal working in a high risk sector and take the action needed against businesses flouting immigration laws.”

The article goes on to say:

‘Today’s licensed premises provisions form part of a wider package of measures in the Immigration Act 2016 to tackle illegal working, which is a key driver of illegal migration to the UK, and often leads to exploitation. They follow similar changes to the licensing regime for private hire vehicles and taxis which were introduced in December.

About 60% of all civil penalties for illegal working served in the UK in the year to February 2017 were issued in the retail, hotel, restaurant and leisure industry sectors, many of which hold licenses.’

The revised Guidance issued under S182 Licensing Act 2003 (April 2017) outlines certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously (para 11.27). One such crime is:

- For employing a person who is disqualified from that work by reason of their immigration status in the UK.

11.28 goes on to say that ‘where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered’.

It is extremely disappointing to learn that, despite the offences relating to the employment of illegal immigrants, the premises licence holder has repeatedly failed in his obligation under to Licensing Act 2003 to prevent crim at Indian Tree.

Should the licensing authority decide against the revocation of the premise licence, then Hampshire Constabulary would request that the Licensing Authority look to modify the conditions on the premises licence. Paragraph 10.10 of the revised Guidance outlines conditions that are considered appropriate for the prevention of illegal working might include:

‘Requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work is retained at the licensed premises.’

Hampshire Constabulary would support both aspects of these requirements to be added to the premises licence as conditions. Such conditions will allow Hampshire Constabulary, officers of the Licensing Authority and other responsible authorities to support Immigration Enforcement in making sure that further crimes of this nature are prevented at the premises.

Yours sincerely

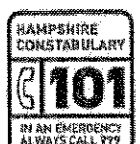


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PC 22237 Conway
Licensing and Alcohol Harm Reduction Team
Hampshire Constabulary



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Witness Statement

Criminal Procedure Rules, r 27.2; Criminal Justice Act 1967, s. 9; Magistrates' Court Act 1980. s.5B

Statement Of: Sharon Conway

URN:

Age (If Under 18): Over 18

Occupation: Police Officer

1 29/03/2017 11:47:

I am PC 22237 Sharon Conway, based at Southampton Police Office, Civic Centre, Southampton. I work within the Licensing and Violent Crime Reduction Team, and cover the New Forest Licensing Authority area. My role is to ensure that licensed premises are promoting and upholding the four licensing objectives:

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- Prevention of crime and disorder
- Prevention of public nuisance
- Public safety
- Protection of children from harm

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In promoting the licensing objectives, Hampshire Constabulary work closely with our partner agencies including Immigration Enforcement officers.

Revised Home Office Guidance issued under S182 Licensing Act 2003 describes who can hold a premises licence and the role of the DPS. This Guidance is widely available for the benefit of those who run licensed premises, their legal advisers and the general public, as well as Licensing Authorities, Responsible Authorities and magistrates' courts.

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Section 8.14 – 8.18 of this Guidance describes who can hold a premises licence.

20 A premises licence holder can be 'Any person (if an individual aged 18 or over) who is carrying on or who proposes to carry on a business which involves the use of premises (any place including one in the open air) for licensable activities may apply for a premises licence either on a permanent basis or for a time-limited period. "A person" in this context includes, for example, a business or a partnership'

25 The premises licence holder would normally be the owner of the business, or the tenant of the property. In some circumstances, the premises licence holder may be the landlord of the building. In any case, police would expect the premises licence holder to have influence in the business. Should there be any issues, including allegations of criminal activity, which the DPS is not able to resolve, then police will look to the premises licence holder to put in place steps to uphold the licensing objectives.

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When applying for a new premises licence, or transferring a premises licence, the applicant (premises licence holder or agent) will make a declaration on the application confirming 'I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities.'

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Witness Statement

Statement Of: Sharon Conway

URN:

The application further reminds 'IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION'

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The designated premises supervisor (DPS) is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder. This responsibility is repeated throughout the Guidance, for example paragraphs 2.5 & 4.18. The role of the DPS includes, but is not restricted to:

- 45
- Upholding the licensing objectives
 - Complying with the premises licence and any conditions attached to the authorisation
 - Authorising the sale of alcohol
 - Having day to day control of the premises
 - Being the point of contact at the premises for responsible authorities.
- 50
- Complying with all other relevant legislation or legal requirements outside of Licensing Act 2003.

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In a restaurant business, the role of the DPS would normally be the owner. If the business has more than one site, it would normally be the site manager nominated as the DPS. The nomination of the DPS onto the premises licence requires confirmation at the application stage from the proposed person. This is partly due to the serious consequences on conviction under the Licensing Act 2003 should any offences come to light.

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'Having day to day control' does not necessarily mean that the DPS is always present at the premises when it is open to the public. However, police do expect that the DPS works at a premises such as a restaurant in full-time capacity, is not responsible as DPS at another premises and holds a position, i.e. a management role, to influence staff so that criminal offences or activities are not committed.

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I have been asked to provide a statement with regards to The Indian Tree, 14 Market Place, Ringwood, Hampshire, BH24 1AW and the premises licence holder and DPS Mr Adib Ahmed BACHHU.

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From police records, BACHHU has been the premises licence holder and DPS since the current premises licence 1485/3 was issued on 12th June 2014 by New Forest District Council. I understand that this licence was issued following an application to change the address of the licence holder and DPS, suggesting BACHHU would have been PLH and DPS prior to 12th June 2014.

Witness Statement

Statement Of: Sharon Conway

URN:

75 As PLH and DPS, BACHHU has a statutory obligation to uphold the licensing objectives outlined above.

80 The police record management system (RMS) shows BACHHU linked to 14 Market Place, Ringwood since 20/10/10, having reported disorderly behaviour at the premises. Since 2010, BACHHU has been spoken to periodically in his role as manager, assisting with police enquires. Notably, BACHHU was spoken to in June 2013 and September 2016. Following an incident on 7th January 2017 at The Indian Tree, BACHHU described himself to police as the manager and owner of the business.

This statement is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

Signature Witness: Digitally signed

Date: 29/03/2017 11:55

Witness To Signature: N/A

Date: N/A

Statement Started 29/03/2017 11:47

Statement Completed 29/03/2017 11:55